

Order No. 40/21

**MUNICIPALITY OF CLANWILLIAM-ERICKSON
ERICKSON WATER AND WASTEWATER UTILITY
INTERIM *EX PARTE* WATER AND WASTEWATER RATES
ACTUAL OPERATING DEFICITS FOR 2013 THROUGH 2019**

March 25, 2021

BEFORE: Irene Hamilton, Q.C., Panel Chair
Mike Watson, Panel Member

1.0 Executive Summary

By this Order, the Public Utilities Board (Board) approves, on an interim *ex parte* basis, revised water and wastewater rates as applied for by the Municipality of Clanwilliam-Erickson (Municipality), for the Erickson Water and Wastewater Utility (Utility).

The revised rates are to be effective April 1, 2021. The approved rates and rate rider are shown in the table as follows:

	Current Rates	April 1, 2021
Quarterly Service Charge	\$ 28.60	\$ 24.95
Water (per 1,000 gallons)	\$ 7.25	\$ 14.57
Wastewater (per 1,000 gallons)	\$ 3.95	\$ 5.34
Bulk Water (per 1,000 gallons)*	\$ 17.05	\$ 20.00
Minimum Quarterly Charge**	\$ 62.20	\$ 84.68
Rate Rider (per 1,000 gallons of water)	-	\$ 4.11
Minimum Quarterly Charge (with Rate Rider)**	-	\$ 97.01

*Rounded to the nearest \$.25

**Based on 3,000 gallons

The Board also approves actual operating deficits of \$13,929 for 2013, \$52,536 for 2014, \$29,613 for 2015, \$19,849 for 2016, \$11,620 for 2017, \$63,843 for 2018, \$17,342 for 2019, or a total seven-year actual operating deficit of \$208,732, to be recovered through a rate rider of \$4.11 per 1,000 gallons beginning April 1, 2021 for a period of seven years or until revenue from the rate rider reaches \$208,732, whichever comes first.

Details of other rates may be found in the attached Schedule A to this Order.

2.0 Application

On January 4, 2021, the Municipality applied for revised water and wastewater rates for the Utility. The application was accompanied by a rate study prepared by the Municipality's consultant, By-Law 69-20 having had first reading October 14, 2020, and Council Resolution No. 165/20 requesting rates be set on an interim *ex parte* basis.

The Municipality's Utility rates were last approved in Board Order No. 136/15 with the last rate increase occurring January 1, 2016.

The Municipality is requesting interim rates because the Utility continues to incur shortfalls/deficits and it has been five years since the Utility has had revised rates.

The Board also received an application for approval of seven actual operating deficits of \$13,929 for 2013, \$52,536 for 2014, \$29,613 for 2015, \$19,849 for 2016, \$11,620 for 2017, \$63,843 for 2018, \$17,342 for 2019, or a total seven-year actual operating deficit of \$208,732. The Council Resolution requested the deficits be recovered through a seven-year rate rider of \$4.11 per 1,000 gallons consumed.

The Deficit Application states the deficits are a result of increased costs and a lack of revenue.

As per a supplementary calculation provided by the Municipality's consultant, the working capital at December 31, 2019 was:

	2019
Utility Fund Surplus/Deficit	\$816,672
Deduct Tangible Capital Assets	(1,263,857)
Add Long-Term Debt	113,916
Add Utility Reserves	27,613
Equals Working Capital Surplus (Deficit)	\$(305,656)
Operating Expenses	276,655
20% of Operating Expenses (Target)	\$55,331

The Utility does not meet the Board minimum working capital surplus of 20%.

When reviewing an application, the Board has at its disposal several approaches. It can hold a public hearing at which the applicant can present its case and customers can present their concerns. In other cases, where it is deemed to be in the best interests of the Utility and its customers, the Board may review the application using a paper review process.

Where there is an urgent need for a rate increase and the Board determines it to be in the best interest of all parties, the Board may also establish interim *ex parte* rates. Interim rates are typically approved as applied for, and are then subject to a Public Notice of Application as well as the Board's review using one of the processes outlined above, before being approved as final by Board Order.

Since this process allows a municipality to have rates set temporarily without a public Board review process, it is reserved for instances where the municipality demonstrates a compelling reason. That reason in this Application is that the Municipality is experiencing multi-year operating deficits and will continue to do so if revised rates are not approved in an expedited manner.

3.0 Board findings

Rates

The Board approves, on an interim *ex parte* basis, the water and wastewater rates as applied for by the Municipality effective April 1, 2021. The Board makes this interim rate decision to mitigate the ongoing operating deficits the Utility is experiencing.

A Notice of the Application to inform the ratepayers of the interim water and wastewater rate increases must be issued as soon as possible.

Deficits

The Board Notes, Board Order No. 117/16 Approved a budgeted operating deficit of \$5,333 for 2016, to be recovered from the Utility's Accumulated Surplus. Subsequent to the Municipality's Application, the Municipality's consultant advised the deficit was not recovered as Ordered by the Board due to errors in calculation of the Utility's Accumulated Surplus. Upon proper calculation, the Utility actually had an Accumulated Deficit at that time and therefore was unable to recover any deficit.

The Board also notes the 2013, 2016, and 2019 Audited Financial Statements erroneously list capital grants of \$4,304, \$8,302, and \$5,259 as operating grants. The Municipality's consultant has advised these figures have been confirmed with the Manitoba Water Services Board and have been revised in the deficit calculations accordingly.

The Board approves the deficits and the proposed recovery methodology as applied for by the Municipality, but is concerned the Utility incurred seven consecutive operating deficits from 2013 up to and including 2019. The Municipality did not apply for these deficits until 2021. By law, Manitoba utilities are not allowed to incur deficits. In the event a deficit occurs, a utility is required by law to file a deficit application and approval of a recovery plan with the Board as soon as it is known.

The reporting of deficits and filing of Deficit Applications is by law a responsibility of the Municipality. Pursuant to *The Public Utilities Board Act*, the Board has available enforcement methods and can apply penalties. The Board will consider utilizing the means at its disposal if the Municipality fails to adhere to this requirement in the future. The Board urges the Municipality to review their internal processes to ensure the reporting of deficits are done in a timely matter.

The Board reminds the Municipality regular rate reviews submitted in a timelier three-year period, as per the Board's Guidelines, protect the financial position of the Utility, exhibit consideration for the finances of ratepayers, and mitigates the need for substantial rate increases. As a result of the above-noted deficits and utility rates that have not been revised since 2016, an additional customer cost using a rate rider is required to recover the seven years of utility deficits.

It is the Utility's responsibility to review its rates and ensure rates are adequate to recover the cost of the service provided to its customers. Customers are generally more tolerant of regular, smaller increases than one significant increase after years of stagnant rates. The Municipality needs to be much more diligent in conducting regular reviews of its revenue requirements and filing Rate/Deficit Applications with the Board accordingly.

The Board strongly encourages the Utility review its Audited Financial Statements thoroughly, on an annual basis, and in conjunction with its municipal auditor(s) and/or Board staff as required, to ensure revenues and expenses are properly recorded in the Audited Financial Statements and deficits are reported to the Board in a timely fashion.

4.0 IT IS THEREFORE ORDERED THAT:

1. The Municipality of Clanwilliam-Erickson's application for revised water and wastewater rates for the Erickson Water and Wastewater Utility BE AND ARE HEREBY APPROVED on an interim *ex parte* basis in accordance with the attached Schedule "A", effective April 1, 2021.
2. The actual operating deficits, when calculated for regulatory purposes, of \$17,342 for 2019, \$63,843 for 2018, \$11,620 for 2017, \$19,849 for 2016, \$29,613 for 2015, \$52,536 for 2014, and \$13,929 for 2013 or a total seven-year actual operating deficit of \$208,732 incurred in the Municipality of Clanwilliam-Erickson, Erickson Water and Wastewater Utility, is HEREBY APPROVED to be recovered through a and a rate rider of \$4.11 per 1,000 gallons beginning April 1, 2021 for a period of seven years or until revenue from the rate rider has reached \$208,732, whichever comes first.
3. The Municipality of Clanwilliam-Erickson amend its water and wastewater By-Law to reflect the decisions in this Board Order and file a copy with the Public Utilities Board, as soon as it has received third and final reading.
4. The Municipality of Clanwilliam-Erickson, Erickson Water and Wastewater Utility provide notice of the interim rates to its customers as soon as possible.

Fees payable upon this Order - \$300.00

Board decisions may be appealed in accordance with the provisions of Section 58 of *The Public Utilities Board Act*, or reviewed in accordance with Section 36 of the Board's Rules of Practice and Procedure (Rules). The Board's Rules may be viewed on the Board's website at www.pubmanitoba.ca.

THE PUBLIC UTILITIES BOARD:

"Irene Hamilton, Q.C."

Panel Chair

"Frederick Mykytyshyn"

Assistant Associate Secretary

Certified a true copy of Order No. 40/21
issued by The Public Utilities Board



Assistant Associate Secretary

SCHEDULE A

MUNICIPALITY OF CLANWILLIAM-ERICKSON ERICKSON WATER AND WASTEWATER UTILITY WATER & WASTEWATER UTILITY RATES BY-LAW No. 69-20 SCHEDULE OF QUARTERLY RATES

1. Schedule of Commodity Rates & Quarterly Service Charge

April 1, 2021

Rates per 1,000 Gallons

1,000 Gallons per quarter

Water	Wastewater	Water & Wastewater
\$14.57	\$5.34	\$19.91

Rate Rider per 1,000 gallons of water sold (see Clause 3) \$4.11

Quarterly Service Charge \$24.95

2. Minimum Charges per Quarter

Notwithstanding the rates set forth in paragraph 1, all customers will pay the applicable minimum charges per quarter set out below, which includes the water allowance as listed.

a) Water & Wastewater Customers

<u>Meter Size</u>	<u>Group Capacity Ratio</u>	<u>Water Included (Gallons)</u>	<u>Customer Service Charge</u>	<u>Water Commodity Charge</u>	<u>Wastewater Commodity Charge</u>	<u>Deficit Rate Rider \$4.11/1,000gal</u>	<u>Water & Wastewater Total Quarterly Minimum</u>
5/8 inch	1	3,000	\$24.95	\$43.71	\$16.02	\$12.33	\$97.01
¾ inch	2	6,000	\$24.95	\$87.42	\$32.04	\$24.66	\$169.07
1 inch	4	12,000	\$24.95	\$174.84	\$64.08	\$49.32	\$313.19
1 ½ inch	10	30,000	\$24.95	\$437.10	\$160.20	\$123.30	\$745.55
2 inch	25	75,000	\$24.95	\$1,092.75	\$400.50	\$308.25	\$1,826.45

b) Water Only Customers

The minimum charge will be the same for each meter size as shown above but the Wastewater Commodity Charge will be excluded.

c) Bulk Water

All water sold in bulk shall be charged for a rate of \$20.00 per 1,000 gallons on a pro rated basis for all quantities of water greater than 500 gallons.

The following clauses take effect April 1, 2021:

3. Deficit Rate Rider

Deficit Rate Rider of \$4.11 per 1,000 gallons of consumption, commencing April 1, 2021 for the 2013 through 2019 deficits is calculated based on a 7-year recovery period as follows:

2013 Actual Audited Deficit	\$13,929
2014 Actual Audited Deficit	\$52,536
2015 Actual Audited Deficit	\$29,613
2016 Actual Audited Deficit	\$19,849
2017 Actual Audited Deficit	\$11,620
2018 Actual Audited Deficit	\$63,843
2019 Actual Audited Deficit	<u>\$17,342</u>
Total to recover	<u>\$208,732</u>

Divided by water volume sold 7,249,000

Deficit Rate Rider, per 1,000 gallons over 7 years: \$4.11 per 1,000 gallons for 2021 to 2027 inclusive or until \$208,732 is collected.

4. Billings And Penalties

Accounts shall be billed quarterly based on water used. A late payment charge of 1.25% compounded monthly shall be charged on the dollar amount owing after the billing due date. The due date will be at least fourteen (14) days after the mailing of the bills.

5. Disconnection and Reconnection

The Public Utilities Board has approved the Conditions Precedent to be followed by the Municipality with respect to disconnection of service for non-payment

including such matters as notice and the right to appeal such action to The Public Utilities Board. A copy of the conditions precedent is available for inspection at the Municipality's office.

Any service disconnected due to non-payment of account shall not be reconnected until all arrears, penalties and a reconnection fee of \$30.00 have been paid.

6. Liability for Charges

Pursuant to Section 252(2) of *The Municipal Act*, the amount of all outstanding charges for water and wastewater services, including fines and penalties, are a lien and charge upon the land serviced, and may be collected in the same manner in which ordinary taxes upon the land are collectible, and with like remedies.

7. Service to Customers Outside Utility's Limits

- a. The Council of Municipality of Clanwilliam-Erickson may sign Agreements with customers for the provision of water and wastewater services to properties located outside the boundaries of the Erickson Utility. Such Agreements shall provide for payment of the appropriate rates set out in this Schedule, as well as a surcharge, set by Resolution of Council, which shall be equivalent to the frontage levy, general taxes, and special taxes for the Utility purposes in effect at the time or may be in effect from time to time, and which would be levied on the property concerned if it were within the Erickson Utility boundaries. In addition, all costs of connecting to the Utility's mains, and installing and maintaining service connections, will be paid by the customer.
- b. All costs of connecting to the Utility's water and wastewater mains and installing service connections, will be paid by the customer.

8. Hydrant Charges

The Municipality of Clanwilliam-Erickson, or any other hydrant owner, will pay to the Erickson Utility an annual fee of \$150 per hydrant for the purpose of maintaining and repairing all fire hydrants connected to the system which shall include the cost of water used for firefighting.

9. Water Allowance Due to Line Freezing

That in any case where, at the request of Council, a customer allows water to run continuously for any period of time to prevent the water lines in the water system from freezing, the charge to that customer for the current quarter shall be the average of the billings for the last two previous quarters to the same customer, or to the same premises if the occupant has changed.

10. Wastewater Surcharges

- a. There may be levied annually, in addition to the rates set forth above, a special surcharge on wastewater having a Biochemical Oxygen Demand in excess of 300 parts per million, to be set by Resolution of Council.

- b. A special surcharge for substances requiring special treatment shall be charged based on the actual costs of treatment required for the particular wastewater or industrial waste.

11. Water Meters

Water meters are owned by the Municipality but are the responsibility of the utility customer to maintain. If the water meter is broken, frozen, etc. the Utility customer will be billed for a new meter at the current cost of replacement.

12. Meter Testing

That in any case where a utility customer requests that a meter be tested for accuracy, the customer will provide the Municipality with a deposit of \$150. The Municipality will then remove the subject meter and send it to an independent lab for testing. If the meter is found to be faulty, all costs associated with the testing process will be borne by the Municipality and the deposit will be refunded to the customer and the customer's account will be adjusted for the preceding four (4) months. If the meter is found to be in proper working order, all costs associated with the testing process will be borne by the customer and the customer will be billed or refunded any balance owing.

13. Cross Connections

No customer or person shall connect, cause to be connected, or allow to remain connected any piping, fixture, fitting, container, or appliance in a manner which under any circumstances may allow water, wastewater or any harmful liquid or substance to enter the Municipality's water system.

If a condition is found to exist which, in the opinion of the Municipality, is contrary to the aforesaid, the Municipality may either:

Shut off the service or services; or

Give notice to the customer to correct the fault at his or her own expense within a specified time period.

14. Conditions of Disrepair

In the event that there are conditions of disrepair in the wastewater and water works on a property that detrimentally affects the system as a whole and, upon the failure of the owner of the property to correct the condition within a reasonable time, the Municipality, or its agents, may enter the property, effect repairs and charge the cost thereof against the subject property as ordinary taxes.

15. Authorization for Officer to Enter Upon Premises

The Public Works Supervisor, or other employee authorized by the Municipality in the absence of the Public Works Supervisor, shall be authorized to enter upon any premise for the purpose of:

Affixing to any pipe, wire or apparatus connected with any such utility, a meter or any other measuring or testing device; or taking readings from, repairing, inspecting, or removing any meter or apparatus belonging to the Municipality.